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BY ECF

The Honorable Jack B. Weinstein
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
E. Brooklyn, New York 11201

Re: *Commodity Futures Trading Commission v. Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets*, No. 18-CV-00361 (JBW)(RLM)

Dear Judge Weinstein:

I am a ProSe litigant in the above captioned matter writing regarding [**Docket #139 styled Motion To Dismiss For Insufficient Evidence**]. I submitted further ECF filings July 16, 2018 to Plaintiff for courtesy upload to be styled as “**Supplemental Attachments**” and was told the system will only accept the word “**Exhibits**”. *However*, when I received my copies of ECF filings from Plaintiff they were done under the **Docket(s); #143, 143-1, 143-2, 143-3, and 144 vs “Attached as Exhibit(s) to Docket #139”** as requested. **To further clarify Your Honor**, Docket(s); “#139-1 is [**Exhibit 1**]”, “143 is [**Exhibit 2**]”, “143-1 is [**Exhibit 3**]”, “143-2 is [**Exhibit 4**]”, “143-3 is [**Exhibit 5**]”, and “144 is [**Exhibit 6**]” which “**collectively**” comprise my initial filings regarding Docket #139. I am very concerned that it is viewed in full and accurate completeness.

Grounds for dismissal; **Insufficient Evidence Lacking Burden Of Proof For Criminal Proceeding; Subject-matter jurisdiction** (pursuant to Rule 12 (b)(1), Fed. R. Civ. P.) and/or **Personal jurisdiction** (pursuant to Rule 12 (b)(2), Fed. R. Civ. P.) and **Failure to state a claim upon relief can be granted** (pursuant to Rule 12 (b)(6), Fed. R. Civ. P.)

Defendant is relying on **FEDERAL RULES OF CIVIL PROCEDURE Rule 41 and/or FEDERAL RULES OF CIVIL PROCEDURE Rule 52(c)** regarding “**Plaintiff Insufficient Evidence**” and “**Failure To Carry A Burden Of Proof**” in presenting their case criminally. **The new provisions of Rule 52(c)**, authorize entry of judgment against the defendant as well as the plaintiff, and earlier than the close of the case of the party against whom judgment is rendered.

A motion to dismiss under Rule 41 on the ground that a plaintiff's evidence is legally insufficient should now be treated as a motion for judgment on partial findings as provided in Rule 52(c).

Respectfully Submitted,
/s/ Patrick K. McDonnell [ProSe]
Patrick K. McDonnell

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